

AMENDMENTS TO THE DRAWINGS

Fig. 1 has been added depicting an exemplary embodiment of the claimed process.

Attachment: One (1) New Sheet

REMARKS

Claims 1-14 are all the claims pending in the application. By this Amendment, Applicant editorially amends claims 1-9. The amendments to these claims were made for reasons of precision of language and consistency, and do not narrow the literal scope of the claims and thus do not implicate an estoppel in the application of the doctrine of equivalents. In addition, Applicant adds claims 10-14, which are clearly supported throughout the specification.

Applicant further amends the specification and adds a figure to cure the minor informalities noted by the Examiner. No new matter is being added.

I. Preliminary Matters

Applicant thanks the Examiner for acknowledging Applicant's claim to foreign priority and for indicating receipt of the certified copy of the priority document. Applicant also thanks the Examiner for returning the initialed forms PTO/SB/08 submitted with the Information Disclosure Statements filed on October 2, 2003 and April 15, 2004.

II. Summary of the Office Action

The Examiner objected to the specification, drawings, and claims 1-9. In addition, the Examiner rejected claims 1, 8, and 9 under 35 U.S.C. § 112, second paragraph, claims 1-8 under 35 U.S.C. § 101, claims 1-5, 8, and 9 under 35 U.S.C. § 102(b) and claims 6 and 7 under 35 U.S.C. § 103(a).

III. Objections to the Specification

The Examiner objected to the specification and Abstract of Disclosure for minor informalities (*see* pages 2 and 3 of the Office Action). Applicant herein amends the specification and Abstract of Disclosure to cure these minor informalities. No new matter is being added. In

view of these amendments to the specification, Applicant respectfully requests the Examiner to now withdraw these objections.

IV. Objections to the Drawings

The Examiner has objected to the lack of drawings. A drawing figure has been added to remedy this informality. A New Drawings Sheet is accompanying this response. Accordingly, the specification has been amended to reflect this newly added figure. No new matter is being added. As a result, the Examiner is respectfully requested to acknowledge receipt and indicate approval of the Drawings in the next Patent Office paper.

V. Objections to the Claims

The Examiner objected to claims 1-9 for minor informalities. Applicant has revised the claims, and respectfully submits that the claims as now presented no longer include the potential informalities mentioned by the Examiner. Applicant therefore respectfully requests the Examiner to withdraw the objections to the claims.

VI. Claim Rejections under 35 U.S.C. § 112, second paragraph

The Examiner rejected claims 1, 8, and 9 under 35 U.S.C. § 112, second paragraph. Applicant respectfully thanks the Examiner for pointing out, with particularity, the aspects of the claims thought to be indefinite. Applicant respectfully requests the Examiner to withdraw this rejection in view of the self-explanatory claim amendments being made herein.

VII. Claim Rejections under 35 U.S.C. § 101

The Examiner rejected claims 1-8 under 35 U.S.C. § 101 as allegedly not providing a tangible result (*see* page 9 of the Office Action). Applicant respectfully disagrees. Applicant respectfully submits that claim 1 recites “reserving resources of the active node according to the

request.” The tangible result produced is a configured active node *i.e.*, the active node with reserved resources, ready for the active data flow. A configured active node is clearly a tangible result. Accordingly, Applicant respectfully requests the Examiner to withdraw this rejection of claims 1-8.

VIII. Claim Rejections under 35 U.S.C. § 102

Claims 1-5, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wittmann et al., (AMnet: Active Multicasting Network), IEEE 1998 (hereinafter “Wittmann”). Applicant respectfully traverses these grounds of rejection in view of the following comments.

Independent claim 1 *inter alia* recites: “wherein said reservation packet is an active packet.” In conventional techniques, the request packet was sent in passive packets (since it contains information for setting up the resources of the node), which resulted in the packet not being processed by active nodes or the correct, active nodes *i.e.*, the ones that will be processing the active packet flow. In an exemplary, non-limiting embodiment, however, the reservation request is in an active packet, which ensures that the correct, active nodes will process the request. It will be appreciated that the foregoing remarks relate to the invention in a general sense, the remarks are not necessarily limitative of any claims and are intended only to help the Examiner better understand the distinguishing aspects of the claims mentioned above.

The Examiner contends that Wittmann inherently discloses the RSVP packet being an active packet. That is, the Examiner contends that since the RSVP packet contains the QF Object, it is active since it will program the QoS filters within an active node (*see* page 10 of the Office Action). Applicant respectfully disagrees.

Under the doctrine of “inherency,” if an element is not expressly disclosed in a prior art reference, the reference will still be deemed to anticipate a subsequent claim if the missing

element “is necessarily present in the thing described in the reference” *Cont’l Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991). “Inherent anticipation requires that the missing descriptive material is ‘**necessarily present,**’ **not merely probably or possibly present,** in the prior art.” (emphasis added) *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295, 63 U.S.P.Q.2d 1597, 1599 (Fed. Cir. 2002); see also MPEP §2112.

Wittmann relates to adopting the RSVP protocol to signaling the QoS filters such as MPEG filters (page 897 and 898, § 3.1). Wittmann discloses adapting RSVP protocol to signal the QoS filter functions. In particular, in Wittmann, a new RSVP class, QoS filter is provided that is adopted to the RSVP protocol. A particular type of filter is designated in a C-Type field (Fig. 2; page 898, § 3.2). Wittmann, however, simply discloses providing passive information relating to the type filtering. In other words, there is no disclosure or even remote suggestion of the information is being provided in an active packet.

The Examiner contends that since the packet contains a QF object, the packet is *inherently* active as “it will program the QoS filters within an active node” (see page 10 of the Office Action). Applicant respectfully submits that in Wittmann, the QoS objects is provided to the QF Daemon that “is responsible for allocation and configuration of the QoS filter according to the requirements stated in the QF object” (emphasis added, page 898, § 3.3). In other words, in Wittmann, the QoS object is nothing more than passive information (filter parameters), as depicted in Figs. 2A and 2B. Accordingly, these passive parameters, QoS objects, are provided to a QF Daemon for configuring the filter. In Wittmann, there is no suggestion that this passive information (QoS object) is provided in an active packet. That is, Wittmann is no different from the conventional techniques in which a passive packet of the RSVP protocol is provided with the

filtering parameters (QoS object). In short, contrary to the Examiner's allegation, the QoS objects are not necessarily provided in the active packets. In Wittmann, there is no disclosure or even remote suggestion of providing this passive information in packets that are intended for execution *i.e.*, active packets.

In summary, the deficiencies of the Wittmann reference fall to the Examiner's burden to show inherent inclusion of the claimed elements. Therefore, for all the above exemplary reasons, independent claim 1 is patentably distinguishable from Wittmann. Claims 2-5, 8, and 9 are patentable at least by virtue of their dependency on claim 1.

In addition, claim 4 recites: "wherein the reservation packet comprises an identifier of the said active data flow." The Examiner contends that "C-type field" discloses identifier of the active data flow (*see* page 11 of the Office Action). Applicant respectfully disagrees. C-type field simply identifies an object type *i.e.*, monochrome filter, re-quantization filter, slicing filter, etc. (page 898). In short, in Wittmann, there is no identifier that identifies the active data flow. For at least these additional exemplary reasons, claim 4 is patentably distinguishable from Wittmann.

IX. Claim Rejections under 35 U.S.C. § 103

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittmann in view of U.S. 6,393,474 to Eichert et al. (hereinafter "Eichert"). Applicant respectfully traverses these grounds of rejection in view of the following comments.

Claims 6 and 7 depend on claim 1. Applicant has already demonstrated that Wittmann does not meet all the requirements of independent claim 1. Eichert is relied upon only for its disclosure of executable code (*see* pages 12 and 13 of the Office Action) and as such fails to cure the deficient disclosure of Wittmann. Together, the combined teachings of these references

would not have (and could not have) led the artisan of ordinary skill to have achieved the subject matter of claim 1. Since claims 6 and 7 depend on claim 1, they are patentable at least by virtue of their dependency.

X. New Claims

In order to provide more varied protection, Applicant adds claims 10-14, which are patentable by virtue of their dependency and for additional features set forth therein.

XI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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